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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/762,617	03/30/2001	Leslie James Squires	HUN 0004 PA	8494

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EXAMINER

YAO, SAM CHAUN CUA

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 10/04/2002

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

09/762,617

Applicant(s)

SQUIRES ET AL.

Examiner

Sam Chuan C. Yao

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 39-44 and 46-53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-38 and 45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7-8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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DETAILED ACTION

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-38 and 45, drawn to a method of laminating an embossed material to another material.

Group II, claim(s) 39-44, drawn to an apparatus for laminating an embossed to another material.

Group III, claim(s) 46-53, drawn to a method of adhesively laminating a first polymer material to another material.

2. The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:
For Groups I-II, taking the recited independent claims as a whole, a common technical feature (i.e. an embossed pattern and point-bonding pattern being selected to be mis-registered from each other) is either anticipated by or obvious over WO 97/20688 (figures 1, 4a, 5) or WO 97/20687 (figure 1, 4a, 5).
For Groups (I-II) and III, the independent claims of Groups (I-II) and III lack corresponding special technical feature. The special technical feature of Groups (I-II), as noted earlier, is: an embossed pattern and point-bonding pattern being selected to be mis-registered from each other; while the independent claim of Group III is: thermally point-bonding a 1st polymeric material and a 2nd material using an thermoplastic adhesive.

3. During a telephone conversation with Mr. Timothy Hagan on 09-30-02 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-38 and 45. Affirmation of this election must be made by applicant in replying to

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this Office action. Claims 39-44 and 46-53 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

4. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 2-8, 10,14, 30 and 34-38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 is indefinite because it is unclear what is intended by the phrase *"maximize the amount of point mis-registration between the two patterns"*. Does this limitation requires no superpositioning of any embossed portions (i.e. protruberances) between two materials during lamination resulting a laminated article similar to figure 1 taught by Ruppel et al (US 6,306,482). Without a definitional guide-line for determining a maximum amount of *point mis-registration between the two patterns*" and since there is no well-reconized precise meaning of this limitation, it would be difficult to determine the metes and bound of this limitation.

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Claim 3 is indefinite because of the claim recitation of “*such as*”. Moreover, it is unclear what is intended by the phrase “*the visual appearance of non-lamination effects*”.

Claims 4-5 are indefinite because the phrase “*the pitch*” does not have a positive antecedent basis. It is also unclear what is meant by a “*variable*” pitch and a “*fixed*” pitch. Does variable pitch and fixed pitch require changing a pitch during a process operation, while a fixed pitch does not?

Claims 6-8 are indefinite because the phrase “*the axes of alignment*” does not have a positive antecedent basis. How are axes determined? What is intended by varying and fixing the axes of emboss points?

Claims 10, 12 and 14 are indefinite because it is unclear what is meant by having a variable emboss pattern bond area and a fixed lamination pattern contact area. It is also unclear what is intended by having a variable emboss point shape/size and a fixed emboss point shape/size.

Claim 30 is indefinite for the same reason as 3.

Claim 34 is indefinite because it is unclear what is intended by the phrase “*non-plastics fabric*”.

Claim 35 is indefinite because it is unclear what is intended by “*the first material can be reversed in orientation to present an emboss pattern having different pattern characteristics to that presented when the first material is not reversed*”.

Moreover, is this process limitation an optional requirement, note the recitation of “*can be*”. Claims 36-38 are indefinite for being dependent on claim 35.

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No art rejection will be made relating to claims 2, 4-8, 10, 12, 14 and 35-38.

The lack of a prior art rejection should not be construed as meaning that the claims would be patentable if corrected to overcome the 35 USC 112 rejection set forth above. No prior art rejection has been made since it would be improper to rely on speculative assumptions as to the meaning of the claims in this application.

It is suggested to amend all claims to conform with US claim drafting practice.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1, 3, 9, 11, 13 and 45 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by either WO 97/20687 (figures 1, 4a, 5), WO 97/20688 (figures 1, 4a, 5) or Ruppel et al (US 6,306,482 using a PCT publication date of 10-02-97; figures 1-2).

Although not explicitly disclosed by the above references, the processes taught by any one of the above references would have inherently avoided *“the visual appearance of non-lamination effects”* because of the similarity of the production processes between the above references and the recited claims.

9. Claims 1, 3, 9, 11, 13, 15, 17-19, 21-23, 25-27, 29-34 and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Leak et al (US 5,763,041).

With respect to claims 1, 3, 9, 11, 13 and 45, Leak et al discloses a process of making an embossed laminated material, the process comprises providing a nonwoven spunbonded material (14; taken to be the recited 1st material);

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providing a thermoplastic film (12; taken to be the recited 2nd material);
embossing the nonwoven material using heated rolls to thermally fused the
material to form 1st spaced apart bonded areas; stretching the film; laminating the
film and the nonwoven material through a pair of bonding rolls to form 2nd spaced
apart bonded areas; wherein the 1st spaced apart bonded areas and 2nd spaced
aprt bonded areas are not equal (see examples), and at least 50% of the 2nd
bonded areas has a size less than 4 mm², while at least 50% of the 1st bonded
areas has a size range of 0.5-0.8 mm² (col. 4 line 16 to col. 6 line 25; examples).
With respect to claim 15, see col. 1 lines 56-59.

With respect to claims 17-19, 21-23, and 25-27, see column 6 lines 26-36,
column 7 lines 21-35, and figure 4.

With respect to claims 29-30, see column 3 lines 55-67; column 6 line 66 to
column 7 line 1.

With respect to claims 31-32, see column 3 lines 48-54.

With respect to claims 33-34, see column 8 lines 33-45.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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11. Claims 20, 24, 28 rejected under 35 U.S.C. 103(a) as being unpatentable over Leak et al (US 5,763,041) as applied to claim 1, 17 or 21 above.

With respect to claim 20, since it is a common practice in the art to form a fastening device comprising a laminated base material where layers in the base material includes two incompatible components or where an adhesive is needed since components do not readily heat-weld together by application of heat and pressure; and since Leak et al teaches alternatively bonding layers together by heat-welding and/or adhesive bonding, this claim would have been obvious in the art.

With respect to claim 24, Since Leak teaches using a "*substantially non-elastic extensible*" material for the recited second material; and since a woven fabric which uses non-elastic strands is well known in the art to be a "*substantially non-elastic extensible*" material, and since it is a common practice in the art to use non-elastic woven fabric as a base material in forming a fastening device, it would have been obvious in the art to replace a non-elastic film with a non-elastic woven fabric in making the emboss laminated web of Leak et al. Alternatively, Leak et al also teaches forming a multi-layered laminated web (col. 8 lines 33-45). Since it is old in the art to form a fastening device comprising a film, a woven fabric and a non-woven fabric, this claim would have been obvious in the art.

With respect to claim 28, since it is notoriously well known in the art to coat materials in a laminated base material with a substance to obtained a desired

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characteristics for the desired end-use the laminated base material, this claim would have been obvious in the art.

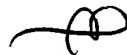
Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sam Chuan C. Yao whose telephone number is (703) 308-4788. The examiner can normally be reached on Monday-Friday with second Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael W Ball can be reached on (703) 308-2058. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7115 for regular communications and (703) 305-7718 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0651.



Sam Chuan C. Yao
Primary Examiner
Art Unit 1733

scy
October 1, 2002